

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	
)	No. D-2637
)	
)	
CATALINO CHAY VIZCARRA, JR., M.D.)	L-23141
11535 Richmond Road)	
Loma Linda, California 92354)	
)	
Physician's and Surgeon's)	
Certificate No. A-24540)	
)	
)	
)	
)	
Respondent.)	
)	

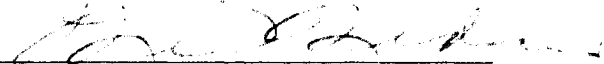
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Medical Quality Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on January 18, 1982.

IT IS SO ORDERED December 11, 1981.

BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

BY: 
MILLER MEDEARIS
Secretary-Treasurer

MLN:bbt

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Physician's and Surgeon's)	
Certificate No. A-24540)	
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PROPOSED DECISION

This matter came on regularly for hearing before Marilyn L. Nelson, Administrative Law Judge of the Office of Administrative Hearings, at San Bernardino, California, on August 3, 4, 5, 6, 10, 11, 12 and 13, 1981. Complainant was represented by Lawrence C. Kuperman, Deputy Attorney General. Respondent was represented by Joseph J. Storto, Attorney at Law. Respondent appeared in person only on August 12, 1981. Oral and documentary evidence having been introduced and the matter submitted, the Administrative Law Judge finds the following facts:

I

Robert Rowland is the Executive Director of the Board of Medical Quality Assurance ("Board") and made and filed the accusation and supplemental accusation in his official capacity.

II

On December 6, 1971, the Board issued physician's and surgeon's Certificate No. A-24540 to Catalino Chay Vizcarra, Jr., M.D. ("Respondent"). This certificate has been in full force and effect since issuance.

III

A. On March 21, 1976, Samuel C. was admitted to Lakeview Hospital, Elsinore, California, with evidence of a penetrating wound in the rectum. The admitting X-ray examination disclosed, inter alia, evidence of a rectal injury with free air dissecting along the perirectal tissues. Respondent, a surgeon, was called in for consultation on this patient by a general practitioner. Respondent accepted this consultation.

B. 1. Respondent was grossly negligent and incompetent in the care of Samuel C. in his initial examination and treatment of the patient in that:

a. He failed to perform the appropriate diagnostic studies and examinations for a patient presenting with an injury as set forth in paragraph A. Respondent examined the patient and then performed exploratory abdominal surgery under general anesthesia. No perforating injury down to the peritoneal reflexion was noted. Respondent then performed a sigmoidoscopy with a finding of edematous mucosa close to the anus and no gross pathology or foreign body in the rectosigmoid. Respondent did not debride or explore the primary injury site, and did not inject a high opaque contrast dye into the rectal canal to determine if there were any breaks in the tissues.

b. The diagnostic testing he did perform was not done in the correct order. Respondent should have performed the sigmoidoscopy first.

c. He failed to perform a colostomy, although the admitting X-ray examination disclosed evidence of rectal injury and the patient was incontinent of the bowel

C. 1. Respondent was grossly negligent and incompetent in the care of Samuel C. in that between March 21, 1976 and April 7, 1976 he failed to perform a colostomy. During this period of time the patient presented extraperitoneal rectum injury. Under such circumstances, a colostomy is mandatory according to the standard of care for physicians and surgeons in the State of California.

2. Respondent allowed Mr. C to be on a regular diet between March 21, 1976 and April 7, 1976. It was not established, however, that respondent was grossly negligent and incompetent in this regard.

D. 1. Respondent was grossly negligent and incompetent in the care of Samuel C. in that in the colostomy he performed on April 8, 1976, he failed to make an adequate incision and closed the wrong end of the intestine. The incision was 2.5 centimeters, or 1 inch, too small for the surgeon to properly identify the distal and proximate ends of the intestine.

2. The patient suffered complete obstruction of the bowel. Respondent corrected his error by revising the colostomy on April 9, 1976, within 36 hours. The revision was done within a reasonable period of time.

E. Respondent was grossly negligent and incompetent in the care of Samuel C. in that from in or about April 14, 1976 through in or about May 10, 1976, he failed to recognize that the feces was not being adequately diverted due to the retraction of the second colostomy he had performed on April 9, 1976. Respondent did recognize that the colostomy had retracted on or about April 14, 1976 but did not correct the condition prior to the patient's transfer to Riverside General Hospital on May 10, 1976 because he wanted to build up the patient first. During this waiting period, however, the colostomy was not adequately diverting the fecal stream from the perineal wound.

F. Respondent was grossly negligent and incompetent in the care of Samuel C. in that from March 21, 1976 to May 10, 1976 he failed to adequately follow his patient. The hospital records do not contain any progress notes written by respondent for the patient during said period, except for postoperative notes. The fact that three general practitioners, who were on contract with the hospital, were also caring for the patient did not relieve respondent from his primary responsibility for the postoperative care of the patient, particularly in view of the seriousness of the patient's condition. The delays between procedures performed by respondent on the patient documented in the hospital records are inconsistent with his claim that he visited the patient daily but did not write progress notes.

G. For purposes of aggravation it is found that because of respondent's gross negligence and incompetence, Samuel C. suffered severe infections, complications, extensive hospitalization and additional procedures.

1. While the patient was at Lakeview Hospital he suffered with perirectal and pericostomy abscesses, with attendant chronic infection, obstruction of initial descending colostomy, and delayed healing of the perirectal wound. Additional procedures performed were incision, drainage and debridement of the perirectal abscess, revision of the descending colostomy, and circumcision of the penis due to swelling. After extensive hospitalization from March 21, 1976 to May 10, 1976, the patient was still acutely and chronically ill.

2. On May 10, 1976, Samuel C. was transferred to Riverside General Hospital for further care. Initial procedures performed included examination of the rectum and perirectal abscess under anesthesia, debridement and treatment of the abscess cavity, and exploration of the colostomy which revealed retraction with questionable fistula to the perirectal space. Revision of the colostomy was subsequently performed; thereafter a pericostomy abscess developed. The patient responded to treatment and was discharged on June 11, 1976.

3. Samuel C. was subsequently rehospitalized at Riverside General Hospital between October 18 and 21, 1976 for spincter repair, and between December 15 and 24, 1976 for closure of the colostomy.

IV

At all times mentioned herein:

A. Preludin, trade name (Boehringer Ingelheim) for phenmetrazine hydrochloride, was classified pursuant to Health and Safety Code Sections 11007 and 11055 and 21 C.F.R. 1308.12 as a Schedule II controlled substance.

B. Quaalude, trade name (Lemmon/Rorex) for methaqualone, was classified pursuant to Health and Safety Code Sections 11007 and 11055 and 21 C.F.R. 1308.12 as a Schedule II controlled substance.

C. Biphedamine was classified pursuant to Health and Safety Code Sections 11007 and 11055 and 21 C.F.R. 1308.12 as a Schedule II controlled substance.

V

A. On or about the following dates respondent issued a prescription for the following patients for the following Schedule II controlled substance(s). Respondent failed to make a record as to the transaction as required by Health and Safety Code Section 11190, as is more particularly alleged hereafter:

SEE ATTACHED CHART

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CHART

Key: B - Biphetamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code Section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/12/79	Vicky Ann C.	P				
3/13/79		Q				
		P				
5/7/79		Q				
		P				
6/4/79		Q				
		P				
5/7/79		Q				
		P				
5/7/79	Clayton F.	Q				
		P				
4/23/79	Mary I. M.	Q				
		P				
5/21/79		Q				
		P				
6/18/79		Q				
		P				
2/12/79	Charles E. M.	Q				
		P				
3/12/79		Q				
		P				
3/27/79		Q				
		P				
4/23/79		Q				
		P				
5/21/79		P				
		Q				
6/18/79		P				
		Q				

CHART

Key: B - Biphethamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code Section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/20/79	Alice J.	P				
3/13/79		Q				
		P				
4/2/79		Q				
		P				
		Q				
2/6/79	Lorene P.	P				
		Q				
3/6/79		P				
		Q				
5/9/79		P				
		Q				
6/6/79		P				
		Q				
5/29/79	Barbara T.	P				
		Q				
6/19/79		P				
		Q				
1/25/79	Connie B.	B				
		Q				
4/16/79		B				
		Q				
6/8/79		Q				
5/7/79		B				
7/16/79		B				
		Q				
9/17/79		B				
10/8/79		Q				
5/9/79	William C. F.	B				
		Q				
2/20/79	J. D. A.	P				X
		Q				X
4/24/79		P				X
		Q				X

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/22/79	J. D. A.	P	X			
6/20/79		Q	X			
		P	X			
2/20/79	Clyde A. A.	Q	X			
		P	X			
3/20/79		Q	X			
		P	X			
4/24/79		Q	X			
		P	X			
5/22/79		Q	X			
		P	X			
6/20/79		Q	X			
		P	X			
2/20/79	LaTanya D. H.	Q	X			
		P	X			
4/24/79		Q	X			
		P	X			
5/22/79		Q	X			
		P	X			
6/19/79		Q	X			
		P	X			
5/3/79	Lemmel F.	Q	X			
			X			
5/29/79		P	X			
		Q	X			
6/20/79		P	X			
		Q	X			
3/6/79	Patricia F. T.	P	X			
		Q	X			
4/2/79		P	X			
		Q	X			

CHART

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/9/79	Patricia F. T.	P			X	
6/6/79		Q			X	
		P			X	
3/28/79	Robert T.	Q			X	
		P			X	
5/2/79		Q			X	
		P			X	
2/20/79	Dennis N. N.	Q			X	
		P			X	
4/24/79		Q			X	
		P			X	
5/21/79		Q			X	
		P			X	
6/20/79		Q			X	
		P			X	
5/1/79	Joseph A. P.	Q			X	
		P			X	
5/29/79		Q			X	
		P			X	
6/19/79		Q			X	
		P			X	
3/26/79	Percy J. F.	Q			X	
3/27/79		Q			X	
5/7/79		P			X	
		P			X	
6/4/79		Q			X	
		P			X	
6/23/79		Q			X	
		P			X	
3/26/79	Milton L. M.	Q			X	
		P			X	
		Q			X	

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
4/23/79	Milton L. M.	P			X	
5/21/79		Q			X	
		P			X	
6/18/79		Q			X	
		P			X	
3/12/79	Robert G. D.	Q			X	
		P			X	
4/18/79		Q			X	
		P			X	
5/21/79		Q			X	
		P			X	
6/4/79		Q			X	
		P			X	
6/23/79		Q			X	
		P			X	
2/12/79	Frank B. B.	Q			X	
		P			X	
3/12/79		Q			X	
		P			X	
4/9/79		Q			X	
		P			X	
3/6/79	Lieselotte B. (Lotti)	Q			X	
		P			X	
4/3/79		Q			X	
		P			X	
5/8/79		Q			X	
		P			X	
6/6/79		Q			X	
		P			X	
3/6/79	Julie J. G.	Q			X	
		P			X	
4/2/79		Q			X	
		P			X	
		Q			X	

CHART

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/8/79	Julie J. G.	P		X		
6/6/79		Q		X		
		P		X		
2/14/79	Melanie L. D.	Q		X		
		P		X		
3/13/79		Q		X		
		P		X		
4/19/79		Q		X		
		P		X		
5/15/79		Q		X		
		P		X		
6/18/79		Q		X		
		P		X		
5/3/79	James M. W.	Q		X		
		P		X		
5/29/79		Q		X		
		P		X		
6/19/79		Q		X		
		P		X		
4/24/79	Bobbie G. W.	Q		X		
		P		X		
5/21/79		Q		X		
5/22/79		Q		X		
6/20/79		P		X		
		P		X		
5/2/79	George R. W.	Q		X		
		P		X		
5/29/79		Q		X		
		P		X		
6/19/79		Q		X		
		P		X		
		Q		X		

CHART

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/14/79	Kimberly A. W.	P			X	
3/13/79		Q			X	
		P			X	
4/10/79		Q			X	
		P			X	
5/15/79		Q			X	
		P			X	
6/13/79		Q			X	
		P			X	
2/16/79	Wiley L. W.	Q			X	
		P			X	
3/13/79		Q			X	
		P			X	
4/9/79		Q			X	
		P			X	
5/17/79		Q			X	
		P			X	
6/13/79		Q			X	
		P			X	
3/26/79	Sherry L. B.	Q			X	
		P			X	
4/23/79		Q			X	
		P			X	
5/21/79		Q			X	
		P			X	
6/18/79		Q			X	
		P			X	
4/9/79	Christopher H.	Q			X	
		P			X	
5/7/79		Q			X	
		P			X	
6/4/79		Q			X	
		P			X	
		Q			X	

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
3/26/79	Ernestine A.	P			X	
4/23/79		Q			X	
		P			X	
2/13/79	Charles B.	Q			X	
		P			X	
3/13/79		Q			X	
		P			X	
4/19/79		Q			X	
		P			X	
5/14/79		Q			X	
		P			X	
6/18/79		Q			X	
		P			X	
3/6/79	Pauline O. D.	Q			X	
		P			X	
5/11/79		Q			X	
		P			X	
6/6/79		Q			X	
		P			X	
2/13/79	Marianna F.	Q			X	
		P			X	
3/13/79		Q			X	
		P			X	
5/17/79		Q			X	
		P			X	
6/13/79		Q			X	
		P			X	
5/1/79	Bobbie L. G.	Q			X	
		P			X	
5/29/79		Q			X	
		P			X	
6/19/79		Q			X	
		P			X	
		Q			X	

CHART

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DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
3/12/79	Joe J.	P		X		
4/19/79		Q		X		
		P		X		
5/14/79		Q		X		
		P		X		
6/18/79		Q		X		
		P		X		
2/12/79	Judy L.	Q		X		
		P		X		
4/18/79		Q		X		
		P		X		
2/12/79	Gloria J. M.	Q		X		
		P		X		
4/18/79		Q		X		
		P		X		
5/7/79		Q		X		
		P		X		
6/4/79		Q		X		
		P		X		
4/23/79	Marla M.	Q		X		
		P		X		
5/21/79		Q		X		
		P		X		
2/20/79	Ella M. P.	Q		X		
		P		X		
4/24/79		Q		X		
		P		X		
5/22/79		Q		X		
		P		X		
6/20/79		Q		X		
		P		X		
		Q		X		

Key: B - Biphethamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code Section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
3/6/79	Adrienne C. T.	P	X			
4/3/79		Q	X			
		P	X			
5/11/79		Q	X			
		P	X			
6/6/79		Q	X			
		P	X			
	Felza E. W.	Q	X			
3/12/79			X			
		P	X			
4/18/79		Q	X			
		P	X			
		Q	X			
6/4/79			X			
		P	X			
		Q	X			

B. Respondent issued the prescriptions described in paragraph A to persons residing primarily in the Los Angeles area. He was operating weight clinics for these out of area patients in his Loma Linda and San Jacinto medical offices with the hope of obtaining surgery business. He obtained the patient referrals from a Loma Linda pharmacist.

VI

A. Respondent, now age 55, was born in Shanghai, China; he moved to the Philippines at age 3. He attended medical school, served an internship, and was employed as a general surgeon in Manila. He moved to the United States in 1957. He was a resident in Detroit, Michigan and Chicago, Illinois, and underwent a two-year preceptorship in Illinois. He practiced in Vancouver, Washington from 1965 to 1972. He began his practice in California in 1972, with an emphasis primarily upon general surgery. He practiced at the Laurel Hospital, the Loma Linda Community Hospital, and in Colton. At the time of his treatment of Samuel C. in 1976, he had staff privileges at the following hospitals: Lakeview, Perris, Loma Linda Community and San Geronio Pass in Banning.

C. Respondent has performed colostomies since caring for S. Coates at the Loma Linda Community Hospital without problems. He now believes that, except for his error in tying off the wrong end of the intestine, his treatment of S. Coates was appropriate.

D. On April 29, 1981 respondent reported to military duty at March Air Force Base with the rank of Lieutenant Colonel for a three-year term as a medical officer. At the military base he performs general surgery and sees patients in the clinic. His commanding officer is aware of this proceeding. Upon joining the military service he was asked for a valid medical license; he holds such licenses in the Philippines, in Washington, and in California. Respondent's absence during the course of this hearing was due to his military service.

VII

RESERVED RULING

Exhibits 3 through 28, 30 through 38, 41, 43 through 47, and 50 and 51, consisting of copies of prescriptions and prescriber records relating to Finding V, are received into evidence.

VIII

All allegations in the accusation and supplemental accusation which are not found to be true or which are not stricken are hereby found to be untrue. All motions not ruled upon by this decision or during the hearing are hereby deemed to be denied.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause exists to discipline respondent's certificate pursuant to Sections 2360* and 2372** of the Business and Professions Code in that he is guilty of unprofessional conduct within the meaning of Sections 2361(b) and (d)*** of the Business and Professions Code by reason of the following findings:

- A. III A in conjunction with III B.
- B. III A in conjunction with III C.
- C. III A in conjunction with III D.
- D. III A in conjunction with III E.
- E. III A in conjunction with III F.

II

Cause exists to discipline respondent's certificate pursuant to Section 2238 of the Business and Professions Code (formerly Section 2391.5), in that he violated Section 11190 of the Health and Safety Code by reason of Findings IV and V.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Physician and surgeon certificate No. A-24540 heretofore issued to respondent Catalino C. Vizcarra, Jr., M.D. by the Board is hereby revoked as to Determination of Issues I A, B, C, D and E, and II, separately and severally; provided, however, that execution of this order of revocation is hereby stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

1. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval, a clinical education program related to the violations found in the decision. The exact number of hours and the specific content of the program shall be determined by the Division or its designee and shall total not less than four nor more than twenty hours per week for a period of not less than three months nor more than two years. The Division or its designee may require the respondent to pass an examination related to the content of the program.

*Effective January, 1981, Section 2360 of the Business and Professions Code was renumbered as Sections 2220, 2221 and 2230.

**Effective January, 1981, Section 2372 of the Business and Professions Code was renumbered as Section 2227.

***Effective January, 1981, Section 2361 of the Business and Professions Code was renumbered as Sections 2234 and 2235.

2. Upon completion of the clinical training program, respondent shall take and pass an oral clinical examination, to be administered by the Division or its designee. If respondent fails this examination, respondent must wait three months between re-examinations, except that after three failures respondent must wait one year to take each necessary re-examination thereafter. The Division shall pay the cost of the first examination and respondent shall pay the cost of any subsequent examinations.

Respondent shall not engage in the practice of medicine until respondent has passed this oral clinical examination and has been so notified by the Division in writing.

3. Respondent is prohibited from engaging in solo practice. Within 30 days of the effective date of this decision, respondent shall submit to the Division, and received its prior approval, for a plan of practice limited to a supervised, structured environment in which respondent's activities will be overseen and supervised by another physician.

4. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

5. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

6. Respondent shall comply with the Division's probation surveillance program.

7. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

8. In the event respondent should leave California to reside or to practice outside the State, respondent must notify in writing the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

9. Periods of practice by respondent with the military service will not apply to the reduction of this probationary period.

10. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation of the respondent's certificate.

11. Upon successful completion of probation, respondent's certificate will be fully restored.

I hereby submit the foregoing
which constitutes my Proposed

Decision in the above-entitled matter, as a result of the hearing had before me on said dates, at San Bernardino, California, and recommend its adoption as the decision of the Board of Medical Quality Assurance.

DATED: Aug. 31, 1981

Marilyn L. Nelson

MARILYN L. NELSON
Administrative Law Judge
Office of Administrative Hearings

MLN:bbt

1 GEORGE DEUKMEJIAN, Attorney General
2 DEBORAH R. MONHEIT,
3 Deputy Attorney General
4 110 West A Street, Suite 700
5 San Diego, California 92102
6 Telephone: (714) 237-7190

7 Attorneys for Complainant

8 BEFORE THE DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation
12 Against:

NO. D-2637

13 CATALINO CHAY VIZCARRA, JR. M.D.
14 11535 Richmond Road
15 Loma Linda, California

ACCUSATION

16 Physician's and Surgeon's
17 Certificate No. A-24540

Respondent.

18
19 Robert Rowland alleges as follows:

- 20 1. He is the Executive Director of the Board of
21 Medical Quality Assurance ("Board") and makes and files this
22 accusation solely in his official capacity.
- 23 2. On or about December 6, 1971, the Board issued
24 physician's and surgeon's Certificate No. A-24540 to
25 Catalino Chay Vizcarra, Jr., M.D. ("Respondent"). This
26 certificate has been in full force and effect since issuance.

27 /

1 3. Sections 2360 and 2372 of the Business and
2 Professions Code ("Code") provide that every certificate may
3 be suspended or revoked.

4 4. Section 2361 of the Code provides in part that
5 the Division of Medical Quality ("Division") of the Board
6 shall take disciplinary action against any holder of a
7 certificate who is guilty of unprofessional conduct.
8 Unprofessional conduct includes, but is not limited to:

9 (a) . . .

10 (b) Gross negligence

11 (c) . . .

12 (d) Incompetence

13 (e) . . .

14 (f) . . .

15 5. Respondent is guilty of unprofessional conduct
16 within the meaning of Section 2361(b) and (d) as is more
17 particularly alleged hereafter:

18 (a) On or about March 21, 1976, Samuel C. was
19 admitted to Lakeview Hospital, Elsinore, California,
20 with evidence of a penetrating wound in the rectum.
21 The admitting Xray examination disclosed, inter alia,
22 evidence of a rectal injury with free air dissecting
23 along the perirectal tissues. Respondent, a surgeon,
24 was called in for consultation on this patient by a
25 general practitioner. Respondent accepted this
26 consultation.

27 /

1 (b) Respondent was grossly negligent and/or
2 incompetent in the care of Samuel C. in his initial
3 examination and treatment of the patient in that he
4 failed to:

5 (1) perform the appropriate diagnostic
6 studies and examinations for a patient presenting with
7 an injury as set forth in paragraph (a), and

8 (2) The diagnostic testing he did perform
9 was not done in the correct order, and

10 (3) He failed to perform a colostomy.

11 (c) Respondent was grossly negligent and/or
12 incompetent in the care of Samuel C. in that between
13 March 21, 1976, and April 7, 1976, he failed to perform
14 a colostomy. Further, respondent allowed Mr. C. to be on a
15 regular diet during this period of time.

16 (d) Respondent was grossly negligent and/or
17 incompetent in the care of Samuel C. in that in the
18 colostomy he performed on April 8, 1976, he failed to
19 make an adequate incision and closed the wrong end of
20 the intestine.

21 (e) Respondent was grossly negligent and/or
22 incompetent in the care of Samuel C. in that from in or
23 about April 9, 1976, through in or about May 10, 1976,
24 he failed to recognize that the second colostomy he had
25 performed on April 9, 1976, had retracted and that the
26 feces was not being adequately diverted.

27 /

1 (f) Respondent was grossly negligent and/or
2 incompetent in the care of Samuel C. in that from in or
3 about March 21, 1976, to in or about May 10, 1976, he
4 failed to adequately follow his patient.

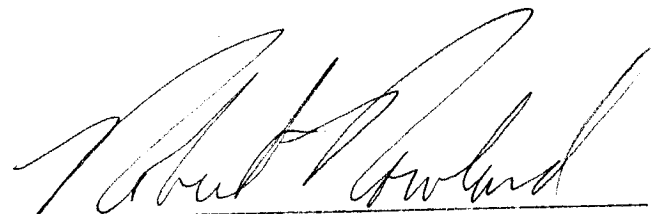
5 (g) For purposes of aggravation only it is
6 alleged that because of respondent's gross negligence
7 and/or incompetence, Samuel C. suffered severe infections,
8 complications, and necessitated extensive hospitalization
9 and additional procedures.

10 WHEREFORE, it is prayed that the Division hold a
11 hearing on the matters alleged herein and upon proof thereof
12 and following this hearing, issue a decision:

13 (1) Suspending or revoking physician's and surgeon's
14 certificate No. A-24540 issued to respondent Catalino
15 Chay Vizcarro, M.D., and

16 (2) Taking such other and further action as the
17 Division in its discretion deems proper.

18 DATED: December 9, 1980

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21 

22 Robert Rowland
23 Executive Director

24 Complainant
25
26
27

1 GEORGE DEUKMEJIAN, Attorney General
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2 Deputy Attorney General
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3 San Diego, California 92101
Telephone: (714) 237-7190
4
Attorneys for Complainant
5
6

7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. D-2637
Against:)
12)
CATALINO CHAY VIZCARRA, JR., M. D.)
13 11535 Richmond Road) SUPPLEMENTAL ACCUSATION
Loma Linda, California)
14)
Physician's and Surgeons')
15 Certificate No. A-24540)
16 Respondent.)
17

18 Robert Rowland alleges as follows:

19 6. He is the Executive Director of the Board and makes
20 and files this supplemental accusation solely in his official
21 capacity.

22 7. Section 2238 of the Code (formerly Code section
23 2391.5) provides that a violation of any federal statute, or
24 federal regulation or any of the statutes or regulations of this
25 state regulating narcotics, dangerous drugs, or controlled
26 substances, constitutes unprofessional conduct within the
27 meaning of this chapter.

1 8. Health and Safety Code section 11190 provides that:

2 "Every practitioner, other than a pharmacist who
3 issues a prescription, or dispenses or administers a
4 controlled substance classified in Schedule II shall
5 make a record that, as to the transaction, shows all
6 of the following:

7 (a) The name and address of the patient.

8 (b) The date.

9 (c) The character and quantity of controlled
10 substance involved.

11 The prescriber's record shall show the pathology
12 and purpose for which the prescription is issued, or
13 the controlled substance administered, prescribed, or
14 dispensed."

15 9. Health and Safety Code section 11191 provides that"

16 "The record shall be preserved for . . . three years.
17 Every person who violates any provision of this section
18 is guilty of a misdemeanor."

19 10. Health and Safety Code section 11192 provides that:

20 " . . . in a prosecution . . . for a violation of
21 section 11190, proof that a defendant received or has
22 had in his possession at any time a greater amount of
23 controlled substances that is accounted for by any
24 record required by law or that the amount of controlled
25 substances possessed by a defendant is a lesser amount
26 than is accounted for by any record required by law is
27 prima facie evidence . . . of a violation of the section."

1 11. At all times mentioned herein:

2 (a) Preludin, trade name (Boehringer Ingelheim)
3 for phenmetrazine hydrochloride, was classified pursuant to
4 Health and Safety Code section 11007 and 21 C.F.R. 1308.12(d)(3)
5 as a Schedule II controlled substance.

6 (b) Quaalude, trade name (Lemmon/Rorex) for
7 methaqualone, was classified pursuant to Health and Safety Code
8 section 11007 and 21 C.F.R. 1308,12(e)(1) as a Schedule II
9 controlled substance.

10 (c) Biphetamine was classified pursuant to Health
11 and Safety Code section 11007 and 21 C.F.R 1308,12(d) as a
12 Schedule II controlled substance.

13 12. Respondent is guilty of unprofessional conduct
14 within the meaning of section 2238 of the Code in that he has
15 violated a statute of this state regulating controlled substances.
16 The circumstances are as follows:

17 On or about the following dates respondent issued
18 a prescription for the following patients for the following
19 Schedule II controlled substance(s). Respondent failed to make
20 a record as to the transaction as required by Health and Safety
21 Code section 11190, as is more particularly alleged hereafter:

22 SEE ATTACHED CHART

23 /

24 /

25 /

26 /

27 /

3.

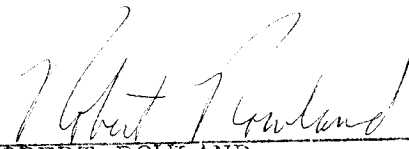
1 WHEREFORE, it is prayed that the Division hold a
2 hearing on the matters alleged herein and upon proof thereof
3 and following this hearing, issue a decision:

4 1. Suspending or revoking physician's and surgeon's
5 certificate no. A-24540 issued to respondent Catalino Chay
6 Vizcarra, M. D., and

7 2. Taking such other and further action as the
8 Division in its discretion deems proper.

9 DATED: February 23, 1981

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ROBERT ROWLAND
Executive Director
Board of Medical Quality Assurance
Complainant

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/12/79	Vicky Ann C.	P				
3/13/79		Q				
5/7/79		Q				
6/4/79		Q				
5/7/79		P				
5/7/79	Clayton F.	Q				
2/7/79	Mary I. M.	P				
4/23/79		Q				
5/21/79		P				
6/10/79		Q				
2/12/79	Charles I. M.	P				
3/12/79		Q				
3/27/79		P				
4/23/79		Q				
5/21/79		P				
6/18/79		Q				

CHART

Key: B - Biphetamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/20/79	Alice J.	P				
3/13/79		Q				
4/2/79		P				
2/6/79	Lorene P.	P				
3/6/79		Q				
5/9/79		P				
6/6/79		Q				
5/29/79	Barbara T.	P				
6/19/79		Q				
1/25/79	Connie B.	B				
4/16/79		C				
6/8/79		B				
5/7/79		Q				
7/16/79		B				
9/17/79		Q				
10/8/79		B				
5/9/79	William C. F.	B				
2/20/79	J. D. A.	Q				
4/24/79		P				

X
X
X
X
X

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/9/79	Patricia F. T.	P	X			
6/6/79		Q	X			
3/28/79	Robert T.	P	X			
5/2/79		Q	X			
2/20/79	Dennis N. N.	P	X			
4/24/79		Q	X			
5/21/79		P	X			
6/20/79		Q	X			
5/1/79	Joseph A. P.	P	X			
5/29/79		Q	X			
6/19/79		P	X			
3/26/79	Percy J. F.	Q	X			
3/27/79		P	X			
5/7/79		P	X			
6/4/79		Q	X			
6/23/79		P	X			
3/26/79	Milton L. M.	Q	X			

CHART

Key: B - Biphentamine, F - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/22/79	J. D. A.					X
3/20/79						X
2/20/79	Clyde A. A.					X
3/20/79						X
4/24/79						X
5/22/79						X
6/20/79						X
2/20/79	LaTanya D. H.					X
4/24/79						X
5/22/79						X
6/19/79						X
4/10/79	Lemmel F.					X
5/3/79						X
5/29/79						X
6/20/79						X
3/6/79	Patricia F. T.					X
4/2/79						X

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
4/23/79	Milton L. M.	P	X			
3/21/79		P	X			
6/18/79		P	X			
3/12/79	Robert G. D.	P	X			
4/18/79		P	X			
5/21/79		P	X			
6/4/79		P	X			
6/23/79		P	X			
2/12/79	Frank B. B.	P	X			
3/12/79		P	X			
4/9/79		P	X			
3/6/79	Lieselotte B. (Lotti)	P	X			
4/3/79		P	X			
5/8/79		P	X			
6/6/79		P	X			
3/6/79	Julie J. G.	P	X			
4/2/79		P	X			

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
5/8/79	Julie J. G.	P	X			
6/6/79		Q	X			
2/14/79	Melanie L. D.	P	X			
3/13/79		Q	X			
4/19/79		P	X			
5/15/79		Q	X			
6/18/79		P	X			
5/3/79	James M. W.	P	X			
5/29/79		Q	X			
6/19/79		P	X			
4/24/79	Bobbie G. W.	P	X			
5/21/79		Q	X			
5/22/79		P	X			
6/20/79		P	X			
5/2/79	George R. W.	P	X			
5/29/79		P	X			
6/19/79		Q	X			

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/14/79	Kimberly A. W.	P	X			
3/13/79		Q	X			
4/10/79		P	X			
5/15/79		Q	X			
6/13/79		P	X			
2/16/79	Wiley L. W.	Q	X			
3/13/79		P	X			
4/9/79		Q	X			
5/17/79		P	X			
6/13/79		Q	X			
3/26/79	Sherry L. B.	P	X			
4/23/79		Q	X			
5/21/79		P	X			
6/18/79		Q	X			
4/9/79	Christopher H.	P	X			
5/7/79		Q	X			
6/4/79		P	X			

CHART

Key: B - Biphetamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
3/26/79	Ernestine A.	P	X			
4/23/79		Q	X			
		P	X			
2/13/79	Charles B.	Q	X			
3/13/79		P	X			
4/19/79		Q	X			
5/14/79		P	X			
6/18/79		Q	X			
3/6/79	Pauline O. D.	P	X			
5/11/79		Q	X			
6/6/79		P	X			
2/13/79	Marianna F.	Q	X			
3/13/79		P	X			
5/17/79		Q	X			
6/13/79		P	X			
5/1/79	Bobbie L. G.	Q	X			
5/29/79		P	X			
6/19/79		Q	X			

CHART

Key: B - Biphetamine, P - Preludin, Q - Qualude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
2/26/79	Joe J.					X
3/12/79						X
4/19/79						X
5/14/79						X
6/18/79						X
2/12/79	Judy L.					X
4/18/79						X
2/12/79	Gloria J. M.					X
4/18/79						X
5/7/79						X
6/4/79						X
4/23/79	Marla M.					X
5/21/79						X
2/20/79	Ella M. P.					X
4/24/79						X
5/22/79						X
6/20/79						X

CHART

Key: B - Biphentamine, P - Preludin, Q - Quaalude, X - the particular entry required by Health and Safety Code section 11190 was made by respondent

DATE OF RX	PATIENT NAME	NAME OF SCHEDULE II CONT. SUB.	NAME/ADDRESS OF PATIENT	DATE OF RX	CHARACTER & QUANTITY OF CONT. SUB.	PATHOLOGY & PURPOSE FOR WHICH RX ISSUED
3/6/79	Adrienne C. T.	P	X			
4/3/79		Q	X			
		P	X			
5/11/79		Q	X			
6/6/79		Q	X			
2/19/79	Felza E. W.	P	X			
3/12/79		Q	X			
4/18/79		P	X			
5/7/79		Q	X			
6/4/79		P	X			
6/11/79	Robert W. C.	Q	X			
1/30/79	Michael G. P.	P	X			
4/20/79		Q	X			